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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

8 JOHN GIMBEL,

Plaintiff,

No. C 07-0113 SBA

10 || vs.

**ORDER**  
[Docket No. 74]

11 STATE OF CALIFORNIA, DEL NORTE  
12 COUNTY SHERIFF'S DEPARTMENT,  
13 JERRY HARWOOD, BILL STEVEN,  
14 GENE McMANUS, MELANIE BARRY,  
15 DANA RENO, ROBERT BARBER, ED  
16 FLESHMAN, CRESCENT CITY POLICE  
17 DEPARTMENT, DOUGLASS PLACK,  
GREG JOHNSON, JAMES HOLT,  
CALEB CHADWICK, THOMAS BURKE,  
DEL NORTE DISTRICT ATTORNEY,  
KEITH MORRIS, AC FIELD, MICHAEL  
RIESE, DARREN McELFRESH, and  
FRITZ LUDERMAN.

### Defendants.

21       Currently before the Court in this closed case is *pro se* plaintiff John Gimbel's "Motion to  
22 Disqualify Judge." Docket No. 74. The gravamen of this motion appears to be that, since Gimbel made  
23 overtly racist statements in his pleadings, this Court should have recused itself from this case rather than  
24 dismiss it, as the Court ordered on September 19, 2007 [Docket No. 68].

25 However, Gimbel has filed a notice of appeal of the dismissal [Docket No. 70], and therefore  
26 this Court no longer has jurisdiction over this matter. *Natural Res. Def. Council, Inc. v. Southwest*  
27 *Marine Inc.*, 242 F.3d 1163, 1166 (9th Cir. 2001). Moreover, the case is closed, and there no matters  
28 currently pending before the Court. Any motion for disqualification or recusal is therefore moot. *Dixon*

1      *v. Clem*, 492 F.3d 665, 680 (6th Cir. 2007) (affirming district court's denial as moot of motion to recuse  
2 after notice of appeal had been filed). Accordingly, Gimbel's "Motion to Disqualify Judge" [Docket  
3 No. 74] is DENIED AS MOOT.

4      IT IS SO ORDERED.

5      Dated: 1/28/08

  
Saundra Brown Armstrong  
United States District Judge

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2 UNITED STATES DISTRICT COURT  
3 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 GIMBEL et al,

5 Plaintiff,

Case Number: CV07-00113 SBA

6 **CERTIFICATE OF SERVICE**

7 v.

8 STATE OF CALIFORNIA et al,

9 Defendant.  
\_\_\_\_\_/

10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
11 Court, Northern District of California.

12 That on January 28, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said  
13 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said  
envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
located in the Clerk's office.

16 John Gimbel  
17 225 Brevus Street  
Crescent City, CA 95531

18 Dated: January 28, 2008

19 Richard W. Wieking, Clerk  
By: LISA R CLARK, Deputy Clerk